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DEPT. FOR AF/W BACHMAN; PASS TO MCC

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SUBJECT: DISGRACED FORMER MINISTERS INDICTED BY NATIONAL ASSEMBLY

REF: A. NIAMEY 682

¶B. NIAMEY 847

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SUMMARY

¶11. Hamani Harouna and Ari Ibrahim - both former Ministers of Basic Education and Literacy in the Government of Niger (GON) - were formally indicted by the National Assembly this week, during an extraordinary session devoted primarily to examining the two men's culpability in the public education fund scandal (reftel B). In indicting the two men, the National Assembly has stripped them of their ministerial immunity, allowing prosecution to go forward. How far forward it goes and how much the GON's investigation of the PDDE affair broadens to include politically well connected businessmen and luminaries of the ruling MNSD party will give a good indication of how serious the government is about fighting corruption. END SUMMARY

¶12. Convening in an extraordinary session on September 22, the National Assembly established two commissions of 15 deputies each to investigate the charges relating to the two former ministers. Hamani Harouna and Ari Ibrahim had resigned in late June when the scandal over kickbacks and over-billing in the donor funded Plan Decennal pour le Developpement de l'Education (PDDE) broke (reftel A). On September 30, those commissions offered their recommendations to the entire National Assembly - indict both men for corruption and malfeasance. The 113 member Assembly proceeded to do just that on October 1 and 2, voting 100 to two to indict Harouna and ninety-five to seven to indict Ibrahim by secret ballot.

¶13. Harouna, an MNSD power-broker who was roughly 18 months into his stint as Basic Education Minister when the PDDE scandal broke was indicted on the following charges on October 1: infringing on bidders' freedom of and equal access to public contracts; aiding and abetting fraudulent misuse of public funds in the amount of CFA 285,557,660 (approximately \$558,821); embezzlement of public funds in the amount of CFA 20,921,000 (approximately \$40,941); and, aiding and abetting forgery that led to the misappropriation of public funds in the amount of CFA 12,639,450 (approximately \$24,734).

¶14. Ibrahim, Harouna's predecessor at the Ministry of Basic Education throughout President Tandja's first term (2000-2005) and a stalwart of the MNSD's biggest coalition partner, the CDS, was serving as Minister of Health prior to his June resignation. On October 2, the commission investigating his case recommended indictment for: infringing bidders' freedom of and equal access to public contracts;

aiding and abetting the fraudulent misuse of public funds in the amount of CFA 571,754,200 (approximately \$1,118,892); and, aiding and abetting fraud and embezzlement of public funds in the amount of CFA 10,348,078 (approximately \$20,250).

NEXT STEPS

¶5. In voting to indict the two ministers, the National Assembly has effectively referred the cases to the Supreme Court's Prosecution Department. The court will establish an investigative commission composed of three judges. The commission will determine if sufficient grounds for prosecution exist. If so, it will refer the case to the National Assembly's High Court of Justice for trial. The High Court of Justice exists specifically to try cases involving members of the National Assembly and Ministers. Since its establishment in 2005, it has never judged a case.

COMMENT

¶6. As guilty as Harouna and Ibrahim are, it is worthwhile to remember that they were not the only ones implicated in the PDDE scandal. Both men argued before the commissions that Prime Minister Hama Amadou had signed off on all of the contracts that they gave to the politically connected businessmen, yet no one outside of the opposition media has called for his indictment. However, the GON does appear to be going after the businessmen and civil servants involved in the PDDE scandal. The businessmen were brought to court and ordered to reimburse the government for the amount of the over-billing; they may yet be prosecuted as well. Many civil servants, including the Secretary General and Financial Controller of MEBA, are facing jail time. The National

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Assembly's next great challenge may be to determine the fate of three of their own. Among the businessmen who profited from the mark-ups were three ruling coalition deputies.

KORAN